

1b. 2013SP-012-001

46TH AND UTAH

Map 103-04, Parcel(s) 161-162
Council District 24 (Jason Holleman)
Staff Reviewer: Greg Johnson

A request to rezone from RS7.5 and CN to SP-MU zoning for properties located at 132 and 134 46th Avenue North, at the southeast corner of Utah Avenue and 46th Avenue North (.54 acres), to permit up to three single-family residential units, office, restaurant, and/or retail uses; requested by Laodice, LLC, owner and applicant.

Staff Recommendation: Approve with conditions if associated plan amendment is approved, and disapprove without all conditions. Disapprove preliminary SP if plan amendment is not approved.

APPLICANT REQUEST

Rezoned to permit three single-family dwellings and 4,900 square feet of commercial space.

Preliminary SP

A request to rezone from Single-Family Residential (RS7.5) and Commercial Neighborhood (CN) to Specific Plan – Mixed Use (SP-MU) zoning for properties located at 132 and 134 46th Avenue North, at the southeast corner of Utah Avenue and 46th Avenue North (.54 acres), to permit up to three single-family residential units, office, restaurant, and/or retail uses.

Existing Zoning

Single-Family Residential (RS7.5) requires a minimum 7,500 square foot lot and is intended for single-family dwellings at a density of 4.94 dwelling units per acre. *The portion of the site currently zoned RS7.5 would permit a maximum of two dwellings based on land area within the zoning district.*

Commercial Neighborhood (CN) is intended for very low intensity retail, office, and consumer service uses which provide for the recurring shopping needs of nearby residential areas. The CN zoned area would permit a maximum of 2,300 square feet of commercial uses because of the floor-area ratio requirements of the CN zoning district. However, there is a legally non-conforming, existing commercial building of 3,000 square feet on the site.

Proposed Zoning

Specific Plan-Mixed Use (SP-MU) is a zoning district category that provides for additional flexibility of design, including the relationship of streets to buildings, to provide the ability to implement the specific details of the General Plan. This Specific Plan proposes three single-family residential uses in addition to 4,900 square feet of commercial uses.

CRITICAL PLANNING GOALS

- Creates Walkable Neighborhoods
- Supports a Variety of Transportation Choices
- Supports Infill Development
- Promotes Compact Building Design

The SP proposes the redevelopment of a site in an established residential neighborhood, served by existing infrastructure. Installation of sidewalks and removal of existing head-in parking along the 46th Avenue street frontage, along with the addition of outdoor seating will improve the walkability of the neighborhood. Small-scale, mixed-use development of this kind supports a variety of transportation choices because it provides additional choices for residents within walking and bicycling distances. Residential development proposed on the site will have a compact footprint compared to surrounding dwellings, but have been designed to be consistent with setbacks of surrounding residential development.

WEST NASHVILLE COMMUNITY PLAN

Existing Policy

T4 Neighborhood Maintenance (T4 NM) policy is intended to preserve the general character of urban neighborhoods as characterized by their development pattern, building form, land use and associated public realm. T4 NM areas will experience some change over time, primarily when buildings are expanded or replaced. When this occurs, efforts should be made to retain the existing character of the neighborhood, in terms of its development pattern, building form, land use and the public realm. Where not present, enhancements are made to improve pedestrian, bicycle and vehicular connectivity.

Proposed policy

T4 Urban Neighborhood Center (T4-NC) policy is intended to preserve, enhance, and create urban neighborhood centers that are compatible with the general character of urban neighborhoods. T4 NC areas are pedestrian-friendly areas, generally located at intersections of urban streets that contain commercial, mixed use, civic and public benefit land uses, with residential present in mixed use buildings. These areas serve urban neighborhoods within a five minute walk. Where not present, infrastructure and transportation networks should be enhanced to improve pedestrian, bicycle, and vehicular connectivity.

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Consistent with Policy?

Yes, this rezoning is consistent with the proposed policy. This SP requires an amendment to the West Nashville Community Plan policy to permit the proposed commercial uses even though the existing CN zoning permits some of these uses currently. As discussed in the plan amendment report, the T4 Neighborhood Center policy is appropriate in this location. The SP

complies with the T4 Neighborhood Center policy. It provides a mixed use project with residential development completing the residential block along Utah Avenue and commercial development facing 46th Avenue, which is an arterial street with a bike lane.

SITE/PLAN DETAILS

The site is currently divided into three lots of approximately equal size facing 46th Avenue North. The two northern lots are zoned RS7.5, and would permit a single-family dwelling on each lot. These two residential lots have been combined by deed into one parcel, but could be divided back to the previously-platted two lots. Currently, one single-family dwelling occupies these two lots. The third lot is zoned CN or Commercial Neighborhood, which is intended for low-intensity retail and office uses. This property has been zoned for commercial development since 1974. A commercial building with a size of approximately 3,000 square feet occupies this site. Until recently, a market operated within the commercial building.

The existing CN zoning district would permit all the uses proposed within the SP. However, not all of the uses could be accommodated under the existing site layout. For example, sufficient parking does not exist to permit a full-service restaurant use. However, removal of a shed at the rear of the CN-zoned lot and the placement of a new parking lot in that location might provide sufficient parking to permit a restaurant use in the current space.

Plan layout

The SP divides the site into approximately two halves: a residential portion on the northern half of the site that would face Utah Avenue and a commercial portion that would face 46th Avenue.

Three single-family residential lots are proposed to face Utah Avenue. These lots, which would have sizes between 3,750 and 4,000 square feet, would be smaller than the surrounding residential lots. However, these new lots would maintain the character of surrounding development. The widths of all three lots will be consistent with the prevailing lots widths on this block of 50-55 feet. Additionally, the proposed single-family detached dwellings will have similar street setbacks to surrounding houses on the same block. Each lot will be accessed by a driveway connection to Utah Avenue, which is also similar to other lots on this block. The dwellings proposed for the Utah Avenue frontage will have a maximum size of 3,000 square feet and a maximum height of three stories for the corner lot and the center lot. The dwelling proposed for the eastern lot will have a maximum size of 2,600 square feet and a maximum height of two stories. The shorter height of the interior dwelling will allow the maximum height to transition to the shorter height of surrounding dwellings on this block which are mostly one-story with some two-story dwellings.

A one-story commercial building is proposed on the southern half of the site. It will contain two tenant spaces totaling 4,900 square feet. Two sets of permitted land uses are permitted for the tenant spaces.

- Tenant space A would permit general office, restaurant (take-out), medical office, general retail, convenience retail, and/or personal care service.

- Tenant space B would permit full service restaurant or retail uses. Front entrances for both tenant spaces will face 46th Avenue. According to the site plan, tenant space B includes an outdoor dining area along the 46th Avenue street frontage.

Sidewalks

Sidewalks are proposed along both street frontages along the site. Sidewalks are not currently present along Utah Avenue. The addition of sidewalk along that frontage will provide a critical link that could be extended in the future. The block face along 46th Avenue North is currently the only block between Charlotte Avenue and Murphy Road, a distance of approximately three-quarters of a mile, without a sidewalk. The proposed sidewalk will complete an important gap in sidewalk connectivity. Along the 46th Avenue block frontage, the sidewalk will have a width of 12 feet, except in one location where a tree planter will narrow the width to 8 feet.

Landscape buffer

A five foot wide alley right-of-way separates the site from the residential lot to the east; the alley has never been constructed. Even though the site does not share a property line with the closest residential lot to the east, a landscape buffer is proposed along the edge of the rear parking lot of the commercial portion of the site where it would be visible from that lot.

Parking

The SP complies with the parking requirements of the Zoning Code for the intended residential and commercial uses. Fourteen spaces are shown behind the commercial building along an alley to the south of the site. Five on-street parking spaces are shown along 46th Avenue North. The existing parking layout along 46th Avenue includes "head-in" perpendicular spaces in front of the restaurant use. This is a parking standard that is no longer permitted because it requires vehicles to back-up into traffic. The SP would resolve this parking design issue by placing buildings along the street frontage, providing formal parking behind the commercial building, and providing on-street parallel parking spaces along the block frontage.

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Signage

Signage proposed for the commercial building is intended to be modestly-sized and illuminated. Ground signs are prohibited by the SP plan. Each business may have one wall sign facing 46th Avenue. Internally-illuminated box signs are prohibited. If signs are illuminated, it shall be from an external source or from a diffused internal source that illuminates only letters and logos.

ANALYSIS

The maximum square footage of commercial development will increase from the existing 3,000 square foot legally non-conforming building to the proposed 4,900 square foot commercial building. The number of dwellings will increase from two to three. The applicant has taken steps to improve the interaction of development with the surrounding neighborhood through compatible design. The SP will add neighborhood amenities of sidewalks, on-street parking, street trees, and outdoor seating to the 46th Avenue street frontage. Along Utah Avenue, new residential lots will allow for single-family dwellings that screen the side and rear of the commercial use while blending with the character of surrounding residential uses.

STORMWATER RECOMMENDATION

Approved

PUBLIC WORKS RECOMMENDATION

1. The developer's final construction drawings shall comply with the design regulations established by the Department of Public Works. Final design may vary based on field conditions.
2. With final SP, submit sight distance calculations for any proposed landscaping within the bulb outs at the intersection of the Alley and Utah with 46th Avenue.
3. With the final SP, sidewalks along the property frontage must be ADA compliant and provide curb ramps at the terminus of the sidewalk on this project where they abut public streets or alleys.

Maximum Uses in Existing Zoning District: **RS7.5**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	0.34	7.41 D	2 L	20	2	3

Maximum Uses in Existing Zoning District: **CN**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Specialty Retail (814)	0.20	0.25 F	2,178 SF	131	9	27

Maximum Uses in Proposed Zoning District: **SP-MU**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Single-Family Detached (210)	0.54	-	3 U	29	3	4

Maximum Uses in Proposed Zoning District: **SP-MU**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Retail (814)	0.54	-	1,700 SF	111	9	26

Maximum Uses in Proposed Zoning District: **SP-MU**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
Restaurant Full Service (932)	0.54	-	3,200 SF	407	37	36

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Traffic changes between maximum: **RS7.5** and proposed **SP-MU**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-		+9	+1	+1

Traffic changes between maximum: **CN** and proposed **SP-MU**

Land Use (ITE Code)	Acres	FAR/Density	Total Floor Area/Lots/Units	Daily Trips (weekday)	AM Peak Hour	PM Peak Hour
-	-	-		+387	+37	+35

SCHOOL BOARD REPORT

Projected student generation 0 Elementary 0 Middle 0 High

Students would attend Sylvan Park Elementary School, West End Middle School, or Hillsboro High School. Of these, West End Middle School has been identified as being over capacity by the Metro School Board. However, the proposed development is not anticipated to generate any additional students. This information is based upon data from the school board last updated October 2012.

STAFF RECOMMENDATION

With approval of the associated community plan amendment, staff recommends approval of the preliminary SP with conditions and disapproval without all conditions. Staff recommends disapproval of the SP if the associated plan amendment is disapproved. The SP is consistent with the intent of the T4 Neighborhood Center policy. Residential development will be used to allow the SP to blend with surrounding residential development. The small-scale commercial building will provide a walkable destination within the neighborhood. With the installation of sidewalks along the street frontages and the revised parking layout, street frontages will be improved.

CONDITIONS

1. Permitted land uses shall be limited to single-family residential development, and for the non-residential building the following non-residential land uses: general office, restaurant (take-out), medical office, general retail, convenience retail, personal care service, and full service restaurant. The financial institution use shall be removed from the list of permitted uses within the SP.
2. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Council approval, the property shall be subject to the standards, regulations and requirements of the RS3.75 zoning district for the residential lots and the CN zoning district for the commercial lot, as of the date of the applicable request or application.
3. Sight distance calculations for any proposed landscaping within the bulb-outs at the intersection of the alley and Utah with 46th Avenue shall be submitted with the final SP application.
4. Sidewalks along the property frontage must be ADA compliant. Curb ramps at the terminus of the sidewalk on this project where they abut public streets or alleys shall be shown on the final SP plan.
5. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.
6. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.
7. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.

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Chairman McLean reminded everyone that the Public Hearing was closed at the last meeting.

Mr. Bernhardt confirmed with Ms. LeQuire, Mr. Gee, and Mr. Clifton that they all viewed the video of the last meeting regarding this Item.

Mr. Johnson presented the staff recommendation of approval with conditions if associated plan amendment is approved and disapproval without all conditions.

Councilmember Holleman stated that he has had several conversations with developers and immediate neighbors since the last MPC meeting. The neighbors reviewed and agreed to the latest plan which designates 2,300 square feet instead of 3,000.

Mr. Bernhardt clarified that the discussion is to reduce the square footage from 3,000 to 2,300.

Ms. LeQuire asked if the presented plan would limit them to two spaces.

Councilmember Holleman noted that making a third space has not been discussed; however, a condition will be that a wall cannot be torn down to create one large space.

Mr. Johnson clarified that they have been specific about two spaces and labeling the specific uses and square footage for each space.

Councilmember Claiborne asked staff to confirm that there are only 19 parking spaces to serve a 70+ seat restaurant.

Mr. Johnson confirmed and stated that it meets the requirements of the UZO which assumes that it is in an area where there is on-street parking and where it is in close proximity to residential.

Councilmember Claiborne stated that a lot of the houses along 46th do not have driveways.

Mr. Johnson stated that most properties have access of some type – either from the alley or from the street frontage.

Mr. Clifton inquired how comfortable we can be that this specific proposal will not be an overwhelming inconvenience/harm to the closest relatives. He also inquired as to what changes have been made since this was originally brought before the commission.

Mr. Johnson noted that since the original submittal, the commercial building has remained the same size in terms of square footage, the three residential dwellings along Utah remain within the same footprint, and the same bulk standards proposed within the SP.

Mr. Clifton expressed concerns with the enforceability of some of our traditional tools to protect neighborhoods if a specific situation gets bad.

Mr. Gee stated that the developers will have to construct a new curb and sidewalk to provide for the new parking spaces. He inquired if there is room within the right of way on the other blocks for additional parallel parking. He also inquired if parallel parking is allowed on 46th.

Mr. Johnson stated that parallel parking is allowed on surrounding side streets and noted that there is a bike lane on a portion of 46th where on-street parking would not be allowed. A curb has been added and the sidewalks have been widened since the original submittal.

Councilmember Holleman stated that Murphy Road has a bike lane that allows on-street parking at night. While this option has been discussed, at this point there is no on-street parking due to the bike lane.

Mr. Hayes inquired how close residents with no on-street parking live in proximity to the proposed development.

Councilmember Holleman stated that one neighbor is within a block; this is an immediate issue.

Mr. Haynes inquired if there have been discussions regarding valet parking or using other industrial uses for parking spaces in the neighborhood.

Councilmember Holleman noted that a condition that has been discussed is a requirement that a certain amount of off-street parking is provided.

Chairman McLean inquired if a community center is nearby.

Councilmember Holleman clarified that there is a community center two blocks away.

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Mr. Haynes inquired if the restaurant and/or other tenant employees could be designated in the lease agreement to park at the nearby church.

Mr. Johnson stated that there are off-site parking requirements in the zoning code. He also stated that it would be relatively easy in the SP to put in requirements for off-street parking; not sure how easy it would be to review standards for who parks in the off-site parking location. Off-site parking allowance could be written into the SP if the applicant wanted to put into the lease agreement something in reference to who is allowed to park there.

Mr. Gee noted that the councilmember and developers might want to consider making improvements for designated parallel parking on an additional block or two. Mr. Gee also stated that he would be in favor of night time parking in the bike lane. There could be some additional, more useful parking created as part of this project.

Mr. Clifton stated that he likes the idea of gradual expansion of non-residential in urban neighborhoods. He also stated that he would support a motion to defer this again because he doesn't feel this area is as fully protected as it could be if some other options are explored.

Ms. LeQuire stated that if we restrict it now, then other future uses will be restricted, i.e. a market instead of a restaurant.

Mr. Haynes noted that he would like to hear from Councilmember Holleman again before a deferral is considered. He noted that this has been going on for eight or nine months now and he isn't sure what a deferral would accomplish.

Councilmember Holleman stated that there is a resolution among the neighbors regarding the 2300 square feet. Some of the on-street parking concerns are beyond the scope of this project, but definitely a discussion that needs to take place. He noted that he will support the 2300 square feet of commercial space B at Council; MPC could add a condition reflecting this if desired. He also clarified that the existing space is 3000 square feet.

Mr. Haynes inquired if the developers wanted to adaptively reuse the 3000 square foot building, could it be a 3000 square foot restaurant.

Mr. Johnson confirmed.

Mr. Gee stated that he will support the project as is.

Mr. Ponder stated that he likes the reduction in size; he will support the project as is.

Councilmember Claiborne stated that he is uncomfortable with the parking and the lack of protection to this neighborhood at the time; too many unknowns.

Mr. Clifton stated that he doesn't think it's appropriate to make developers feel micro-managed when they are trying to move ahead with a project. He noted that he wants to disapprove this and move it on so it can be re-referred back from Council if they so desire; not comfortable approving as is.

Ms. LeQuire stated that she doesn't feel comfortable approving as is.

Councilmember Holleman noted that if the MPC approves with a condition that the second unit be no more than 2300 square feet, then either the applicant will agree to that or if not, the only way it can pass at Council is with 27 votes.

Mr. Ponder moved and Mr. Gee seconded the motion to approve with conditions, including a condition to restrict Tenant Space B to 2300 square feet gross floor area. (4-3-1) Mr. Clifton, Mr. Dalton, and Ms. LeQuire voted against. Councilmember Claiborne abstained.

Resolution No. RS2013-96

"BE IT RESOLVED by The Metropolitan Planning Commission that 2013SP-0012-001 is Approved with conditions, including a condition to restrict Tenant Space B to 2,300 square feet gross floor area, and disapprove without all conditions. (4-3-1)

The SP is consistent with the intent of the T4 Neighborhood Center policy. The residential component of the site plan will complement the surrounding development pattern. With the conditions of approval, the size of the commercial component will be compatible with surrounding development.

CONDITIONS

1. Restrict Tenant Space B to 2,300 square feet gross floor area.

2. Permitted land uses shall be limited to single-family residential development, and for the non-residential building the following non-residential land uses: general office, restaurant (take-out), medical office, general retail,

convenience retail, personal care service, and full service restaurant. The financial institution use shall be removed from the list of permitted uses within the SP.

3. For any development standards, regulations and requirements not specifically shown on the SP plan and/or included as a condition of Council approval, the property shall be subject to the standards, regulations and requirements of the RS3.75 zoning district for the residential lots and the CN zoning district for the commercial lot, as of the date of the applicable request or application.

4. Sight distance calculations for any proposed landscaping within the bulb-outs at the intersection of the alley and Utah with 46th Avenue shall be submitted with the final SP application.

5. Sidewalks along the property frontage must be ADA compliant. Curb ramps at the terminus of the sidewalk on this project where they abut public streets or alleys shall be shown on the final SP plan.

6. A corrected copy of the preliminary SP plan incorporating the conditions of approval by Metro Council shall be provided to the Planning Department prior to the filing of any additional development applications for this property, and in any event no later than 120 days after the effective date of the enacting ordinance. The corrected copy provided to the Planning Department shall include printed copy of the preliminary SP plan and a single PDF that contains the plan and all related SP documents. If a corrected copy of the SP plan incorporating the conditions therein is not provided to the Planning Department within 120 days of the effective date of the enacting ordinance, then the corrected copy of the SP plan shall be presented to the Metro Council as an amendment to this SP ordinance prior to approval of any grading, clearing, grubbing, final site plan, or any other development application for the property.

7. Minor modifications to the preliminary SP plan may be approved by the Planning Commission or its designee based upon final architectural, engineering or site design and actual site conditions. All modifications shall be consistent with the principles and further the objectives of the approved plan. Modifications shall not be permitted, except through an ordinance approved by Metro Council that increase the permitted density or floor area, add uses not otherwise permitted, eliminate specific conditions or requirements contained in the plan as adopted through this enacting ordinance, or add vehicular access points not currently present or approved.

8. The requirements of the Metro Fire Marshal's Office for emergency vehicle access and adequate water supply for fire protection must be met prior to the issuance of any building permits.
